

DEFENDANT’S REQUESTED PENALTY PHASE INSTRUCTION NO. 2
NO NEXUS REQUIRED BETWEEN MITIGATING FACTORS AND CRIME

The law does not require that there be a connection between the mitigating evidence and the crime committed. It is not necessary, for example, for the defense to prove that adverse circumstances in the defendant’s childhood or family background caused him to commit the offense for you to consider those facts mitigating. Whether ~~any given mitigating factor~~ information offered in mitigation had a direct connection to the crime does not affect ~~its status as a~~ your ability to consider it as a mitigating circumstance ~~that you are required to consider~~.

Tennard v. Dretke, 542 U.S. 274 (2004) (rejecting lower courts’ requirement that defendant establish “nexus” between alleged mitigating factor and commission of the capital offense); instruction adapted from *United States v. Azibo Aquart*, Case No. 6cr160 (JBA), Tr. at 33 (D. Conn., June 13, 2011).²